

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy
PUBLIC COPY

U.S. Department of Homeland Security
20 Massachusetts Ave. NW, Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

24

FILE:

Office: CALIFORNIA SERVICE CENTER

MAR 30 2005
Date:

IN RE:

Applicant:

PETITION: Application for Status as a Temporary Resident pursuant to Section 210 of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center. Subsequently the case was remanded by the Director, Legalization Appeals Unit (LAU), now the Administrative Appeals Office (AAO). The application was denied again by the Director, California Service Center. The matter is before the AAO on appeal. The appeal will be dismissed.

In both decisions of denial, the director denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. The decisions were based on evidence adverse to the applicant's claim of employment for [REDACTED]

Although the applicant did not respond to the more recent decision of denial, her appeal taken from the previous decision of denial is still in effect. In that appeal, the applicant reaffirmed her claimed employment.

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, and must be otherwise admissible under section 210(c) of the Act and not ineligible under 8 C.F.R. 210.3(d). 8 C.F.R. 210.3(a). An applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. 210.3(b).

On the Form I-700 application, the applicant claimed 92 man-days employment harvesting fruit for [REDACTED] at Bavaro Farms in San Joaquin, California from May 1, 1985 to May 1986.

In support of the claim, the applicant submitted a corresponding Form I-705 affidavit and a separate employment letter, both purportedly signed by [REDACTED]

On October 7, 1991, in a Notice of Intent to Deny, the Director, Western Service Center, noted that the signatures on the applicant's documents did not appear to match the exemplars of [REDACTED] signature in possession of the Service. The applicant was accorded 30 days to respond to that evidence.

In response, the applicant submitted a letter in which she stated that she did work for [REDACTED] and that she is submitting another statement from [REDACTED] to corroborate her claim. The applicant submitted a photocopied employment letter signed by [REDACTED] in which [REDACTED] that he signed the applicant's work statement.

The director found that the applicant had not overcome the adverse evidence and denied the application. On appeal, the applicant reaffirms her claimed employment and submitted copies of evidence, previously submitted.

On December 12, 1995, the LAU remanded the case citing that the signature differences were minimal and could not be determined without forensic analysis of the signatures.

Subsequently, in a letter dated March 19, 1997, the applicant requested that her application be reconsidered and reaffirmed her claimed employment for [REDACTED]. The applicant restated the remand asserting that the signature discrepancies used by the director to deny her claim were minimal and that such differences could not be determined without forensic analysis.

On May 1, 2001, in a Notice of Intent to Deny, the director informed the applicant that a forensic analysis of the signatures on her documents had been conducted (June 10, 1999), and that the Document Examiner had determined that it was "highly probable" that the person who signed the applicant's documents did not sign the exemplars in possession of the Service. The applicant was afforded 30 days to respond. The applicant did not respond.

On September 25, 2004, the director again denied the application. No further information, argument or documentation has been received from the applicant, or from anyone acting on her behalf.

Generally, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification. 8 C.F.R. 210.3(b)(1). Evidence submitted by an applicant will have its sufficiency judged according to its probative value and credibility. 8 C.F.R. 210.3(b)(2). Personal testimony by an applicant which is not corroborated, in whole or in part, by other credible evidence (including testimony by persons other than the applicant) will not serve to meet an applicant's burden of proof. 8 C.F.R. 210.3(b)(3).

No specific type of documentation is required to sustain the applicant's burden of proof. However, the documentation must be credible. Documents which appear to have been forged, or otherwise deceitfully created or obtained, are not credible. United Farm Workers (AFL-CIO) v. INS, Civil No. S-87-1064-JFM (E.D. Cal.).

The signature discrepancy noted by the director calls into question the origin and authenticity of the applicant's documentation. Forensic analysis determined that the signatures on the applicant's documentation were probably not [REDACTED]. The applicant has not addressed nor overcome this derogatory evidence. Therefore, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight.

The applicant has failed to credibly establish the performance of at least 90 man-days of qualifying agricultural employment during the twelve-month statutory period ending May 1, 1986. Consequently, the applicant is ineligible for adjustment to temporary resident status as a special agricultural worker.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.